



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1480  
Alexandria, Virginia 22313-1480  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,687	11/09/2001	Jan C. Torfs	44661A	2952

109 7590 07/07/2003

THE DOW CHEMICAL COMPANY  
INTELLECTUAL PROPERTY SECTION  
P. O. BOX 1967  
MIDLAND, MI 48641-1967

EXAMINER

LAUCHMAN, LAYLA G

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/990,687

Applicant(s)

TORFS ET AL.

Examiner

L. G. Lauchman

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2877

### ***Claim Objections***

Claims 13-25 are objected to because of the following informalities: Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation, 37 CFR 1.75(i). Appropriate correction is required.

Claims 9-12 are objected to because it is not clear how "the values of  $k(w,h,i)$  are determined for a test object manufactured from a material and with a surface texture corresponding with the kind of a material and the predetermined surface texture of a sample object.." It appears to be a literal translation from a foreign language. To overcome the objection, the claims 9-12 should be rewritten to conform to the current US practice.

Claim 16 is objected to as being in improper form because it depends on Claims 13 and 5.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite,

...m to current U.S. practice. They appear to be a literal translation into  
... from a foreign document and are replete with grammatical and idiomatic errors.  
The parameters  $w$ ,  $h$ ,  $i$  are not defined.

Claim 13 recites the limitation "the desired reflectance value(s)  $R_{m \text{ ref}}(w, h, i)$ ."  
There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 7 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Osumi et al (US 6,362,885).

As to Claims 1 and 7, the patent '751 teaches a method for computer-aided color matching that accurately computes a ratio of colorants to metallic or pearlescent pigments with the desired hue characteristics, comprising predicting spectral reflectance by calculating spectral reflectance values, which are established for at least one wave length and a plurality of angles representing illuminating and viewing angles. In addition, in Claim 7, the parameters  $w$ ,  $h$ ,  $i$  are not defined.

As to Claims 2-6, 8, 9-12, the surface reflection calculated from at least two different reflectance values and from ideal reflectance value and the measured reflectance valued using a color theory equation (see col. 8-13). The color theory equation is assumed to be independent of the viewing and illumination angles.

***Allowable Subject Matter***

Claims 13-25 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

As to Claim 13, the prior art of record taken along or in combination, fails to disclose or render obvious all the method steps as claimed in combination.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Asaba et al teach a method for measuring reflectance factor. Cheetam et al teach a method for formulating a color match, and Pringle discloses a method for color matching paints.

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. Papers should be faxed to TC 2877 via the PTO Fax Center located in CP4-4C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Center number is (703)308-7722 or 308-7724.

If the Applicant wishes to send a Fax dealing with either a Proposed Amendment or for discussion for a phone interview then the fax should:

a) Contain either the statement "DRAFT" or "PROPOSED AMENDMENT" on the Fax Cover Sheet; and

b) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (703) 305-0071.


Application/Control Number: 09/990,687

Page 5

Art Unit: 2877

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (703) 308-0956.

L. G. Lauchman  
Patent Examiner  
Art Unit 2877  
6/26/03/lgl

  
\_\_\_\_\_  
Frank G. Font  
Supervisory Patent Examiner  
AU 2877